

Serial No. 10/757,472
Office Action Mailed January 2, 2008
Reply dated March 11, 2008
Attorney Docket No. 010482.53148US

REMARKS

As an initial matter, and in furtherance to the prior request made in the Reply filed November 6, 2007, Applicants again respectfully request that the Examiner initial and return a copy of the form PTO-1449 filed on February 9, 2006, indicating that U.S. Patent No. 6,483,988 (document AA) has been considered. In the present application, claims 1, 4 and 5 are pending.

The provisional rejection of claims 1, 4 and 5 on the ground of non-statutory obviousness-type double patenting over claims 1-3 of co-pending application no. 11/330,342 is respectfully traversed.

Applicants note that the only ground of rejection set forth in the current Office Action is the aforementioned provisional double patenting rejection.

MPEP § 804(I)(B) indicates that a provisional double patenting rejection over another application should be made unless the provisional double patenting rejection is the only rejection remaining in at least one of the applications. In such a case, the MPEP states that:

If "provisional" obviousness-type double patenting rejections in two applications are the only rejections remaining in those applications, the examiner should withdraw the obviousness-type double patenting rejection in the earlier filed application thereby permitting that application to issue without need of a terminal disclaimer.

The present application was filed on January 15, 2004, while the other application (11/330,342) was filed on January 12, 2006. Thus, the present application is the earlier filed application. Because the claims in the present

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application are otherwise allowable, the Office should withdraw the provisional double patenting rejection and allow the present case to issue. Reconsideration and withdrawal of this provisional rejection are therefore respectfully requested.

If there are any questions regarding this amendment or the application in general, a telephone call to the undersigned would be appreciated since this should expedite the prosecution of the application for all concerned.

If necessary to effect a timely response, this paper should be considered as a petition for an Extension of Time sufficient to effect a timely response, and please charge any deficiency in fees or credit any overpayments to Deposit Account No. 05-1323 (Docket #010482.53148US).

Respectfully submitted,

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